

PATENT
Attorney Docket No. 57761.000143

REMARKS

The Office Action mailed December 24, 2003 has been reviewed and its contents carefully considered. Claims 48-61, 63-76, 78-82, 84-88, 90-93, and 95-100 remain pending in the present application. By this amendment, claims 48, 57, 63, 72, 78, 84, 90, 91, 92, 98, 99 and 100 are amended and claims 62, 77, 83, 89 and 94 are canceled without prejudice or disclaimer to the subject matter set forth therein. For the reasons set forth below, it is respectfully submitted that the claims are in condition for allowance.

A. The 35 U.S.C. §112 Rejection

The Office Action rejects claims 57 and 72 under 35 U.S.C. §112, second paragraph. The Office Action asserts deficiencies regarding antecedent basis. The claims have been amended in response to the asserted deficiencies. Applicant respectfully submits that the claims satisfy all requirements of 35 U.S.C. §112.

B. The Rejection based on Andersen and Kekic

In the Office Action, claims 48 - 51, 53, 58-59, 63 - 66, 68, 73-74, 90 - 93, 95, 97 - 98, and 100 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,578,142 to Anderson. Further, in the Office Action, claims 54, 56, 60-62, 69, 71, 75-77, 94 and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of U.S. Patent No. 6,272,537 to Kekic. Claim 48, for example, has been amended to include the features of claim 62.

With regard to Anderson and claims 48, 63, 92, and 98, the Office Action asserts that Anderson discloses a method of integrating a software system over a network (Column 2, lines 26 - 33; Column 3, lines 10 - 12; Column 4, lines 46 - 49), comprising: (a) receiving an order for a software system from a user for a user system at a server over the network (Column 3, lines 49

PATENT
Attorney Docket No. 57761.000143

- 55; Column 9, lines 9 - 11); (b) configuring the user system over the network (Column 5, lines 11 - 21); and (c) installing the software system on the user system over the network (Column 3, lines 57 - 64).

In the Abstract, Anderson describes a method including copying a first application from a first non-volatile memory to a second non-volatile memory and setting the first application to be a start-up application. Anderson teaches that the method includes booting-up an operating system and executing the first application; determining if a suitable connection exists, determining if a needed bandwidth of the suitable connection is available, and downloading a second application if the suitable connection exists and the needed bandwidth of the suitable connection is available.

In column 3, line 10, Anderson describes that the Anderson invention relates to a method and apparatus for automatically installing and configuring software on a computer. Further, in column 3, lines 31-67, Anderson teaches two software modules are used. One is resident on a user's system, and is used to access a predetermined web site. For example, in one embodiment of Anderson, the operating system and Basic Input and Output System (BIOS) are pre-installed on a computer system, and when the computer system is subsequently first powered up, an application, referred to for discussion purposes as the first software module (in one embodiment, the first software module is the initial start-up application (ISUA) will allow the launching of one or more executable programs in the pre-boot environment. In one embodiment of Anderson, the first software module facilitates the launching of one or more executable programs prior to the loading, booting, execution and/or running of the OS. The user is encouraged to select the use of such a program (i.e., the use of the first software module), and in alternative embodiments, the program is automatically launched. The program(s) contained in the first software module enables tools and utilities to run at an appropriate time, and with proper user authorization, also

PATENT
Attorney Docket No. 57761.000143

allow the user to download a second software module that includes drivers, applications and additional payloads through the Internet connection on the PC. The programs may also provide for remote management of the system if the OS fails to launch successfully.

Anderson further describes in column 3, that once a second software module has been delivered, it may become memory resident, and may disable the transferred copy of the first software module. The original copy of the first software module still residing in the system's non-volatile memory remains idle until the second software module fails to function, becomes corrupted or is deleted, upon which a copy of the original first software module is again transferred

With regard to Kekic and claims 60, 61, 62, 75, 76, 77, and 94, the Office Action (page 6) asserts that Anderson in view of Kekic discloses that the user system comprises at least one of a personal computer and a mainframe (Kekic, Column 13, lines 50 - 52, Column 20, lines 54 - 55), a network (Kekic, Column 13, lines 37 - 38), *and a power management control system (Column 5, lines 9 - 13, where the network elements being managed could be power monitoring and control devices).*

These assertions as set forth in the Office Action are respectfully traversed as they relate to the features of previous claim 62 and currently amended claim 48. Claim 48 recites a method of integrating a software system over a network, comprising (a) receiving an order for a software system from a user for a user system at a server over the network; (b) configuring the user system over the network; and (c) installing the software system on the user system over the network; and *wherein the software system comprises a power management control system.*

Applicant submits that the applied art fails to teach the various features of claim 48 where the software system comprises a power management control system. The Office Action asserts

PATENT
Attorney Docket No. 57761.000143

that Kekic discloses "*a power management control system (Column 5, lines 9 - 13, where the network elements being managed could be power monitoring and control devices)*". Applicant has reviewed the teachings of Kekic. It is simply not seen that Kekic teaches such features as alleged in the Office Action.

To explain, Kekic is directed to a method for building element manager for a computer network element using a visual element manager builder process. Kekic teaches in column 4, line 65 - column 5, line 14, that a managed element server of the Kekic invention is a comprehensive open, standards-based network management solution for computer networks having a computer network management capability. The managed element server efficiently manages a constantly changing and growing heterogeneous computer network.

In particular, in column 5, lines 7-15, Kekic further describes that the client-server network management system of the Kekic invention includes: a plurality of managed computer network elements, sometimes called managed elements; a managed element server that executes on a first computer; and at least one managed element server client that typically executes on a second computer. The managed element server and managed element server client are computer processes that execute from memory of their respective computers.

As is apparent, such disclosure of Kekic fails to set forth a teaching of a power management control system as alleged in the Office Action. Accordingly, Applicant respectfully submits that the assertions in the Office Action are without basis regarding the teachings of Kekic and a power management control system. Further, Kekic does not appear to otherwise teach aspects of a power management control system.

PATENT
Attorney Docket No. 57761.000143

Further, even if Kekic did teach aspects of a power management control system (which Kekic does not appear to), there is no basis for combining the teachings of the applied art so as to teach or suggest the claimed invention as recited in claim 48.

For at least the reasons set forth above, Applicant submits that the applied art to Anderson and Kekic fail to teach or suggest the claimed features. Further, claims 63, 90, 91, 92, 98 and 100 define patentable subject matter for reasons similar to those set forth above with respect to claim 48.

Further, the various dependent claims define patentable subject matter for at least the reasons set forth with regard to the corresponding independent claims, as well as the additional features such dependent claims recite. Withdrawal of the rejections under 35 U.S.C. §102 and 35 U.S.C. §103 is respectfully requested.

C. The Rejections Based on Low

The Office Action rejects claims 52 and 67 under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Low (5,218,605). The Office Action asserts that regarding claims 52, and 67, Anderson does not explicitly indicate the step of (g) testing the at least one software application. The Office Action asserts that Low teaches a method of testing a software application from a remote source (Column 3, lines 6 - 9; lines 43 - 52); and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Low's teaching of testing software applications remotely in Anderson's remote software installation and development system in order to ensure the functionality of the software applications while not requiring the user to do manual work.

PATENT
Attorney Docket No. 57761.000143

The Office Action further rejects claims 57, 72, 78-89, and 99 under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Kekic as applied to claims 54 and 71 above, and further in view of Low.

Applicant submits that the teachings of Low, relating to software modules for testing computer hardware and software, fail to remedy the deficiencies of Anderson and Kekic as discussed above, i.e., so as to teach claim 78 for example. Accordingly, it is respectfully submitted that claims 78, 84 and 99 define patentable subject matter for reasons similar to those set forth above with respect to claim 48.

Further, the various dependent claims define patentable subject matter for at least the reasons set forth with regard to the corresponding independent claims, as well as the additional features such dependent claims recite. Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

D. The Rejections Based on Murphy

The Office Action rejects claims 55 and 70 under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Kekic as applied to claims 54 and 71 above, and further in view of Murphy (5,768,148).

The Office Action asserts that Anderson in view of Kekic does not explicitly indicate the step of (y) testing the screen design with a dynamic data exchange simulator to ensure functionality. The Office Action further discusses that Murphy teaches a dynamic data exchange simulator that has the purpose of testing a server system to ensure the correct operation of the system and its communication functions; and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a dynamic data exchange simulator

PATENT
Attorney Docket No. 57761.000143

Anderson in view of Kekic's system in order to test their server system to provide a more stable test system for the system because it does not involve the network elements.

Murphy is directed to a man machine interface for power management control systems and specifically to a utility for rapid development of three dimensional representations of electrical distribution switchgear. In the Abstract, Murphy describes switchgear elevations have logical connections to the switchgear devices. An elevation can be modified to any dimensions with an infinite number of combinations and arrangements of meters and protection devices to quickly and accurately represent a customer's switchgear. Murphy further teaches that an event logger utility is provided for viewing, organizing and analyzing unusual behavior in a power system.

In further detail, Murphy teaches in column 2, lines 3-48, a power management control system comprises a computer having standard RS485 interface cards and adapters installed in its I/O slots defining multiple industry standard Modbus RTU networks. The computer contains software for monitoring and controlling selected aspects of power usage/consumption. Murphy teaches the Modbus RTU protocol is a well known industry standard; and that devices with a Modbus RTU interface can be connected directly to the Modbus and other devices which communicate on the Commnet protocol require a Modbus concentrator. The Modbus concentrator provides an interface between the Modbus RTU protocol and the Commnet protocol, whereby these other devices can communicate through the Modbus concentrator over the Modbus.

Murphy further teaches that alternatively, standard Ethernet interface cards and adapters are installed in the computer's I/O slots defining multiple standard Ethernet TCP/IP networks.

The Ethernet TCP/IP protocol is a well known standard, which would allow a user of the power

PATENT
Attorney Docket No. 57761.000143

management control system of the present invention to use its existing LAN; and that the use of an existing LAN may significantly reduce installation cost of the system, since much of the system wiring may already be in place. Murphy describes that ethernet gateways are connected to the Ethernet TCP/IP networks to provide an interface between the Ethernet TCP/IP protocol and the Modbus RTU protocol.

However, it is respectfully submitted that even if it were obvious to somehow combine Murphy with the Anderson/Kekic system (as proposed in the Office Action) to test a server system, as proposed in the Office Action, such would still fail to teach or suggest the features of claims 48 and 63, i.e., so as to cure the deficiencies as described above. That is, Murphy is relied upon for teachings relating to testing a server system. Such teachings of Murphy cannot cure the deficiencies of the other applied art, as discussed above.

Accordingly, it is respectfully submitted that claims 48 and 63 define patentable subject matter for those reasons set forth above. Further, the dependent claims 55 and 70 define patentable subject matter for at least the reasons set forth with regard to the corresponding independent claims, as well as the additional features such dependent claims recite. Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

E. Conclusion

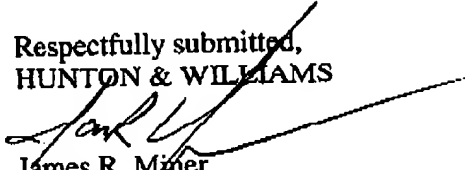
For at least the reasons outlined above, Applicant respectfully asserts that the application is in condition for allowance. Favorable reconsideration and allowance of the claims are respectfully solicited.

Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

PATENT
Attorney Docket No. 57761.000143

For any fees due in connection with filing this Response the Commissioner is hereby
authorized to charge the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,
HUNTON & WILLIAMS


James R. Miner
Registration No. 40,444

Hunton & Williams LLP
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006-1109
(202) 955-1500

Dated: June 24, 2004